

Chesapeake Bay Exception CBE-11-001: 104 Braemore; Ford's Colony

Staff report for the August 11, 2010 Chesapeake Bay Board Public Hearing

This staff report is prepared by the James City County Environmental Division to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Mr. Michael Carroll, Hallmark Builders Inc.

Land Owner(s): Paul and Jane Hart
44 Mohawk Trail
Bridgewater, NH 03222

Location: 104 Braemore Williamsburg, VA 23188
Pin: 3720500032: Paul and Jamie Hart, owners

Parcel Size/Zoning: 0.51 +/- acres, PUD Residential
Percent of Parcel in RPA: 52% (0.25 +/- acres)

Watershed: Powhatan Creek; Non-Tidal Mainstem (HUC Code JL31)

Proposed Impacts

Impervious Area: 2,684 square feet (0.06 acres)

RPA Encroachment Landward and Seaward 50 foot RPA Buffers

Brief Summary and Description of Activities

Mr. Michael Carroll of Hallmark Builders, Inc. on behalf of Paul and Jane Hart has applied for an exception to the Chesapeake Bay Ordinance for the encroachment into the RPA buffer for construction of a single family dwelling at 104 Braemore in the Ford's Colony Subdivision.

The proposed dwelling will create approximately 627 square feet of impervious cover in the 50' seaward buffer and 2,057 square feet of impervious cover in the landward 50' buffer. The applicant also proposes to remove nine trees which equates to roughly a 20% reduction in overall tree canopy on the lot.

Additionally, due to a 30' building setback line enforced by Ford's Colony that is in place on the north side of the lot, the proposed dwelling cannot be moved forward out of the seaward 50' RPA buffer.

Background

The lot was recorded following the adoption of the Ordinance in 1990, and no RPA existed on the lot at the time of plat recordation. The Chesapeake Bay Preservation Ordinance was revised in 2004 and it was determined that the adjacent pond was perennially fed and subsequently a RPA has been located on this lot. In this case, the exception request is for the construction of a single family dwelling which will encroach into both the 100' and 50' RPA buffers. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for the construction of a single family residence in the Ford's Colony Subdivision. Staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board.

Water Quality Impact Assessment (WQIA)

In accordance with Bay Act requirements and the Ordinance all land disturbance, development or redevelopment within the RPA requires a water quality impact assessment (WQIA). Water quality impact assessments shall identify impacts of proposed development on water quality and land in RPAs and recommended measures for mitigation of these impacts. Localities must review a WQIA prior to action on the exception request.

A WQIA was provided on June 30, 2010. Based on staff review, the WQIA proposes to mitigate for RPA impacts by:

- Replanting the RPA with 7 canopy trees (Red Maple), 7 understory trees (American Holly), 21 shrubs (Wax myrtle), and 160 square feet of mulch.

The amount of plantings proposed does not meet the standard mitigation planting requirements of the County for impervious impacts. The mitigation plan will need to be revised to meet the proper mitigation rates prior to implementation in the field.

Staff Recommendation

Staff has fully reviewed the application and exception request, including the WQIA, and has determined impacts associated with the proposal to be moderate for the proposed construction and that the proposed mitigation measures, once revised, may offset the impacts to the RPA. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

1. The applicant must obtain all other necessary local permits as required for the project.
2. The mitigation plan must be revised to meet County mitigation standards by including 14 understory trees prior to the plan's implementation in the field.
3. All proposed mitigation plantings shall meet James City County Standards with canopy and understory trees being of 1 ½ caliper or six feet to eight feet tall and shrubs being of three gallon size.

4. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) d. and 23-17(c) by providing a form of surety satisfactory to the County Attorney.
5. This exception request approval shall become null and void if construction has not begun by August 11, 2011, or all improvements including the required mitigation plantings are not completed by that expiration date.
6. Written requests for an extension to an exception shall be submitted to the Environmental Division no later than 2 weeks prior to the expiration date.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-11-001 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-11-001 are included for the Board's use and decision.

Staff Report prepared by:

Michael P. Majdeski
Senior Environmental Inspector

CONCUR:

Scott J. Thomas
Secretary to the Board

Attachments: